

Executive Summary – Enforcement Matter – Case No. 46011
BOLIVAR UTILITY SERVICES, L.L.C.
RN103637807
Docket No. 2013-0133-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

MWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Laguna Harbor WWTP, located at 1329 29th Street, approximately 0.25 mile north and 0.9 mile west of the intersection of State Highway 87 and Broadway Avenue (Loop 108), Galveston County

Type of Operation:

Wastewater treatment plant and associated collection system

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: May 31, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$20,001

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$1,001

Total Due to General Revenue: \$19,000

Payment Plan: 19 payments of \$1,000 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

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Docket No. 2013-0133-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: November 16, 2012

Date(s) of NOE(s): January 11, 2013

Violation Information

1. Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained [Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014452001, Operational Requirements No. 1, and 30 TEX. ADMIN. CODE § 305.125(1) and (5)].
2. Failed to comply with permitted effluent limits for carbonaceous biochemical oxygen demand, total residual chlorine, ph, and Enterococci [TPDES Permit No. WQ0014452001, Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 3, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a)].
3. Failed to utilize an Environmental Protection Agency approved method for effluent analysis [TPDES Permit No. WQ0014452001, Monitoring and Reporting Requirements No. 2.a., and 30 TEX. ADMIN. CODE § 319.11(c)].
4. Failed to properly conduct the total chlorine residual analysis [TPDES Permit No. WQ0014452001, Monitoring and Reporting Requirements No. 1, and 30 TEX. ADMIN. CODE § 319.11(c)].
5. Failed to prevent the unauthorized discharge of wastewater from the collection system [TPDES Permit No. WQ0014452001, Permit Conditions No. 2.g., 30 TEX. ADMIN. CODE § 305.125(4) and (5), and TEX. WATER CODE § 26.121(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures:

- a. On January 6, 2012, at Lift Station No. 3, contained the spill by installing temporary and permanent breakers and vacuuming and remediating the affected area.
- b. On January 26, 2012, at Lift Station No. 3, contained the spill by replacing both transformers.
- c. On July 5, 2012, at Lift Station No. 3, contained the spill by replacing wiring on the relays, and vacuuming and remediating the affected area.

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d. By November 26, 2012, installed a new lift station which reduced the amount of waste that was being trucked directly into the Facility, which in turn reduced the concentration of waste handled by the Facility and lowered the chlorine feed rate.

e. By November 29, 2012, pumped out and cleaned the chlorine contact basin and began monitoring it on a weekly basis.

f. By December 3, 2012:

i. Began using a Hach Chlorine Pocket Colormeter II to monitor for chlorine residual; and

ii. Began performing manganese oxide corrections for each chlorine residual analysis.

Technical Requirements:

The Order will require Respondent to, within 90 days, submit certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0014452001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted limitations.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5890; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: Michael P. Lege, Secretary/Treasurer, BOLIVAR UTILITY SERVICES, L.L.C., P.O. Box 22858, Beaumont, Texas 77720

James L. Hayes, Manager, BOLIVAR UTILITY SERVICES, L.L.C., P.O. Box 22858, Beaumont, Texas 77720

Respondent's Attorney: Andrew Barrett, Attorney, Barrett & Associates, PLLC, 317 North Main Avenue, Denver City, Texas, 79323

DATES	Assigned	14-Jan-2013						
	PCW	16-Jan-2013						
	Screening	15-Jan-2013		EPA Due				

RESPONDENT/FACILITY INFORMATION			
Respondent	BOLIVAR UTILITY SERVICES, L.L.C.		
Reg. Ent. Ref. No.	RN103637807		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	46011	No. of Violations	6
Docket No.	2013-0133-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jorge Ibarra, P.E.
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum		\$0	Maximum
			\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$18,750
ADJUSTMENTS (+/-) TO SUBTOTAL 1 <small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>		
Compliance History <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> Notes: Enhancement for three months of self-reported effluent violations. </div>	15.0% Enhancement Subtotals 2, 3, & 7	\$2,812
Culpability <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> Notes: The Respondent does not meet the culpability criteria. </div>	0.0% Enhancement Subtotal 4	\$0
Good Faith Effort to Comply Total Adjustments		Subtotal 5
		\$1,561
Economic Benefit <div style="display: flex; justify-content: space-between; font-size: x-small; margin-top: 5px;"> Total EB Amounts \$1,656 </div> <div style="display: flex; justify-content: space-between; font-size: x-small; margin-top: 5px;"> Approx. Cost of Compliance \$28,500 </div>	0.0% Enhancement* <small>*Capped at the Total EB \$ Amount</small> Subtotal 6	\$0
SUM OF SUBTOTALS 1-7		Final Subtotal
		\$20,001
OTHER FACTORS AS JUSTICE MAY REQUIRE <small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>		0.0% Adjustment
<div style="border: 1px solid black; height: 40px; margin-top: 5px;"> Notes: </div>		
		Final Penalty Amount
		\$20,001
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty
		\$20,001
DEFERRAL <small>Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>		0.0% Reduction Adjustment
<div style="border: 1px solid black; height: 40px; margin-top: 5px;"> Notes: No deferral is recommended for Findings Orders. </div>		
PAYABLE PENALTY		\$20,001

Screening Date 15-Jan-2013

Docket No. 2013-0133-MWD-E

PCW

Respondent BOLIVAR UTILITY SERVICES, L.L.C.

Policy Revision 3 (September 2011)

Case ID No. 46011

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN103637807

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	3	15%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 15%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for three months of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 15%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 15%

Screening Date 15-Jan-2013

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Policy Revision 3 (September 2011)

Case ID No. 46011

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN103637807

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s)

Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014452001, Operational Requirements No. 1, and 30 Tex. Admin. Code § 305.125(1) and (5)

Violation Description

Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the chlorine contact basin contained six inches of sludge in a total water depth of six feet.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Harm Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

13 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly event is recommended from the investigation date of November 16, 2012 to the compliance date of November 29, 2012.

Good Faith Efforts to Comply

25.0% Reduction

\$312

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent achieved compliance by November 29, 2012 for this violation.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$1,126

This violation Final Assessed Penalty (adjusted for limits) \$1,126

Economic Benefit Worksheet

Respondent BOLIVAR UTILITY SERVICES, L.L.C.
Case ID No. 46011
Reg. Ent. Reference No. RN103637807
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)	\$500	16-Nov-2012	29-Nov-2012	0.04	\$1	\$1

Notes for DELAYED costs

Estimated cost to pump out and clean the chlorine contact basin and begin monitoring it on a weekly basis.
 Date required is the investigation date, and the final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$1

Screening Date 15-Jan-2013

Docket No. 2013-0133-MWD-E

PCW

Respondent BOLIVAR UTILITY SERVICES, L.L.C.

Policy Revision 3 (September 2011)

Case ID No. 46011

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN103637807

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 2

Rule Cite(s)

TPDES Permit No. WQ0014452001, Effluent Limitations and Monitoring Requirements No. 1, 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a)

Violation Description

Failed to comply with permitted effluent limits as documented during an investigation conducted on November 16, 2012. See attached Effluent Limit Violation Table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was used to evaluate carbonaceous biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

60 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly event is recommended for the quarter containing the months of April and June 2012.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,501

Violation Final Penalty Total \$1,438

This violation Final Assessed Penalty (adjusted for limits) \$1,438

Economic Benefit Worksheet

Respondent BOLIVAR UTILITY SERVICES, L.L.C.
Case ID No. 46011
Reg. Ent. Reference No. RN103637807
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$20,000	30-Apr-2012	30-Oct-2013	1.50	\$1,501	n/a	\$1,501

Notes for DELAYED costs

Estimated cost to install a new lift station which reduced the amount of waste that was being trucked directly into the Facility, to lower the chlorine feed rate and to return to compliance with permit effluent limits. Date required is the first date of non-compliance, final date is the anticipated compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$20,000

TOTAL

\$1,501

Screening Date 15-Jan-2013

Docket No. 2013-0133-MWD-E

PCW

Respondent BOLIVAR UTILITY SERVICES, L.L.C.

Policy Revision 3 (September 2011)

Case ID No. 46011

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN103637807

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 3

Rule Cite(s)

TPDES Permit No. WQ0014452001, Effluent Limitations and Monitoring Requirements Nos. 2 and 3, 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a)

Violation Description

Failed to comply with permitted effluent limits as documented during an investigation conducted on November 16, 2012. See attached Effluent Limit Violation Table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

	Major	Harm Moderate	Minor
Release Actual	x		
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to pollutants which exceeded levels that are protective of human health or environmental receptors.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1

30 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

One monthly event is recommended for the month of November 2012.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$8,625

This violation Final Assessed Penalty (adjusted for limits) \$8,625

Economic Benefit Worksheet

Respondent BOLIVAR UTILITY SERVICES, L.L.C.
Case ID No. 46011
Reg. Ent. Reference No. RN103637807
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit for Violation No. 2.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 15-Jan-2013

Docket No. 2013-0133-MWD-E

PCW

Respondent BOLIVAR UTILITY SERVICES, L.L.C.

Policy Revision 3 (September 2011)

Case ID No. 46011

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN103637807

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 4

Rule Cite(s)

TPDES Permit No. WQ0014452001, Monitoring and Reporting Requirements No. 2.a., and 30 Tex. Admin. Code § 319.11(c)

Violation Description

Failed to utilize an Environmental Protection Agency ("EPA") approved method for effluent analysis and to properly conduct the total chlorine residual analysis. Specifically, the LaMotte 1200 DPD Chlorine meter uses EPA method 330.5, which is not an approved method for the analysis of total chlorine residual for wastewater, and manganese oxide corrections were not being conducted for total chlorine residual analysis.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to utilize an EPA approved method for effluent analysis and to properly conduct the total chlorine residual analysis could result in the exposure to significant amounts of pollutants which would not exceed levels that are protective of human health or the environment.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

17 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,250

One quarterly event is recommended from the investigation date of November 16, 2012 to the compliance date of December 3, 2012.

Good Faith Efforts to Comply

25.0% Reduction

\$312

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent achieved compliance by December 3, 2012 for this violation.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$1,126

This violation Final Assessed Penalty (adjusted for limits) \$1,126

Economic Benefit Worksheet

Respondent BOLIVAR UTILITY SERVICES, L.L.C.
Case ID No. 46011
Reg. Ent. Reference No. RN103637807
Media Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,000	16-Nov-2012	3-Dec-2012	0.05	\$5	n/a	\$5

Notes for DELAYED costs

Estimated cost to purchase a Hach Chlorine Pocket Colormeter to conduct the total chlorine residual analysis, and begin performing manganese oxide correction for each chlorine residual analysis. Date required is the investigation date, and the final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$5

Screening Date 15-Jan-2013

Docket No. 2013-0133-MWD-E

PCW

Respondent BOLIVAR UTILITY SERVICES, L.L.C.

Policy Revision 3 (September 2011)

Case ID No. 46011

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN103637807

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 5

Rule Cite(s)

TPDES Permit No. WQ0014452001, Permit Conditions No. 2.g., 30 Tex. Admin. Code § 305.125(4) and (5), and Tex. Water Code § 26.121(a)

Violation Description

Failed to prevent the unauthorized discharge of wastewater from the collection system. Specifically, during the period between December 6, 2011 and November 16, 2012, the Respondent reported five sanitary sewer system overflows. See attached Unauthorized Discharge Table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

	Major	Harm Moderate	Minor
Release Actual			x
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 3

3 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

Three quarterly events are recommended, one for each unauthorized discharge.

Good Faith Efforts to Comply

25.0% Reduction

\$937

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent achieved compliance by July 5, 2012 for this violation.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$149

Violation Final Penalty Total \$3,376

This violation Final Assessed Penalty (adjusted for limits) \$3,376

Economic Benefit Worksheet

Respondent BOLIVAR UTILITY SERVICES, L.L.C.
Case ID No. 46011
Reg. Ent. Reference No. RN103637807
Media Water Quality
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)	\$6,000	6-Jan-2012	5-Jul-2012	0.50	\$149	\$149

Notes for DELAYED costs

Estimated cost to repair/replace any damaged components of the collection system and to chemically treat and cleanup the unauthorized discharges (\$500 for each discharge). Date required is the date of the first unauthorized discharge and the final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$6,000

TOTAL

\$149

Screening Date 15-Jan-2013

Docket No. 2013-0133-MWD-E

PCW

Respondent BOLIVAR UTILITY SERVICES, L.L.C.

Policy Revision 3 (September 2011)

Case ID No. 46011

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN103637807

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 6

Rule Cite(s)

TPDES Permit No. WQ0014452001, Effluent Limitations and Monitoring Requirements No. 1, 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a)

Violation Description

Failed to comply with permitted effluent limits as documented during an investigation conducted on November 16, 2012. See attached Effluent Limit Violation Table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Harm Moderate	Minor
Actual		X	
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix
Notes

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events

1

30

Number of violation days

mark only one
with an x

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One monthly event is recommended for the month of September 2012.

Good Faith Efforts to Comply

0.0%

Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$4,313

This violation Final Assessed Penalty (adjusted for limits) \$4,313

Economic Benefit Worksheet

Respondent BOLIVAR UTILITY SERVICES, L.L.C.
Case ID No. 46011
Reg. Ent. Reference No. RN103637807
Media Water Quality
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description **Item Cost** **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
 No commas or \$

Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit for Violation No. 2.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

BOLIVAR UTILITY SERVICES, L.L.C.
 RN103637807, Case No. 46011, TPDES Permit No. WQ0014452001
 Docket No. 2012-0133-MWD-E

<i>EFFLUENT PARAMETER</i>				
<i>Permit Limit</i>				
	CBOD Daily Average Concentration	Enterococci Single Grab	Cl ₂ Residual Maximum Concentration	pH Minimum
<i>Month/Year</i>	10 mg/L	89 CFU/ 100 mL	4 mg/L	6 su
April 2012	13	c	c	c
June 2012	12.5	c	c	c
September 2012	c	1,159	c	c
November 16, 2012 *	c	c	>8.8	5.81

mg/L = milligrams per liter su = standard units CFU = colony forming units
 mL = milliliter c = compliant CBOD = carbonaceous biochemical oxygen demand
 Cl₂ = chlorine * = grab sample

BOLIVAR UTILITY SERVICES, L.L.C
RN103637807, Case No. 46011, TPDES Permit No. WQ0014452001
Docket No. 2013-0133-MWD-E

UNAUTHORIZED DISCHARGE TABLE			
Date	Location	Amount Discharged (gallons)	Description
January 5, 2012	Lift Station No. 3	1,000	Lift Station No. 3 lost power due to problems at the Entergy transformer that services the lift station, causing a spill.
January 26, 2012	Lift Station No. 3	1,000	Lift Station No. 3 lost power due to problems at the Entergy transformer that services the lift station, causing a spill.
July 5, 2012	Lift Station No. 3	500	The wires on the relay shorted out which caused the pumps to malfunction.



Compliance History Report

PUBLISHED Compliance History Report for CN603058215, RN103637807, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:	CN603058215, Bolivar Utility Services, LLC	Classification:	SATISFACTORY	Rating:	2.00
Regulated Entity:	RN103637807, LAGUNA HARBOR WWTP	Classification:	SATISFACTORY	Rating:	4.00
Complexity Points:	8	Repeat Violator:	NO		
CH Group:	08 - Sewage Treatment Facilities				
Location:	LOCATED AT 1329 29th STREET, APPROX 0.25 MI N AND 0.9 MI W OF THE INTX OF SH 87 AND BROADWAY AVE (LOOP 108) IN GALVESTON CO TX				
TCEQ Region:	REGION 12 - HOUSTON				
ID Number(s):	WASTEWATER PERMIT WQ0014452001				
	WASTEWATER EPA ID TX0125776				
Compliance History Period:	September 01, 2007 to August 31, 2012	Rating Year:	2012	Rating Date:	09/01/2012
Date Compliance History Report Prepared:	January 14, 2013				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	January 14, 2008 to January 14, 2013				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	Jorge Ibarra, P.E.	Phone	(817) 588-5890		

Site and Owner/Operator History:

- | | |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |
| 3) If YES for #2, who is the current owner/operator? | N/A |
| 4) If YES for #2, who was/were the prior owner(s)/operator(s)? | N/A |
| 5) If YES, when did the change(s) in owner or operator occur? | N/A |

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:
N/A

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	July 06, 2009	(821188)
Item 2	August 10, 2009	(821189)
Item 3	September 08, 2009	(821190)
Item 4	October 06, 2009	(821191)
Item 5	November 23, 2009	(821193)
Item 6	December 21, 2009	(821194)
Item 7	February 08, 2010	(821186)
Item 8	March 26, 2010	(836692)
Item 9	April 26, 2010	(836693)
Item 10	May 27, 2010	(836693)
Item 11	June 28, 2010	
Item 12	June 30, 2010	(862492)
Item 13	August 26, 2010	(869109)
Item 14	September 27, 2010	(875968)
Item 15	October 25, 2010	(883556)
Item 16	November 29, 2010	(889933)
Item 17	December 27, 2010	(898351)
Item 18	January 24, 2011	(904191)
Item 19	February 28, 2011	(911063)
Item 20	March 28, 2011	(931266)
Item 21	April 27, 2011	(931267)
Item 22	May 26, 2011	(940075)
Item 23	June 27, 2011	(947476)
Item 24	July 25, 2011	(954729)
Item 25	August 29, 2011	(961312)
Item 26	September 26, 2011	(979493)
Item 27	December 27, 2011	(986341)
Item 28	January 23, 2012	(992725)
Item 29	February 22, 2012	(1000068)
Item 30	March 19, 2012	(1005563)
Item 31	April 19, 2012	(1012124)
Item 32	June 20, 2012	(1026226)
Item 33	September 20, 2012	(1049089)
Item 34	September 21, 2012	(1040107)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	04/30/2012	(1018523)	CN603058215	
	Self Report?		YES	Classification:	Moderate
	Citation:		2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:		Failure to meet the limit for one or more permit parameter		
2	Date:	06/30/2012	(1033581)	CN603058215	
	Self Report?		YES	Classification:	Moderate
	Citation:		2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:		Failure to meet the limit for one or more permit parameter		
3	Date:	9/30/2012		CN603058215	
	Self Report?		YES	Classification:	Moderate
	Citation:		2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:		Failure to meet the limit for one or more permit parameter		

F. Environmental audits:
N/A

G. Type of environmental management svstems (EMSs):
N/A

H. Voluntary on-site compliance assessment dates:
N/A

I. Participation in a voluntary pollution reduction program:
N/A

J. Early compliance:
N/A

Sites Outside of Texas:
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
BOLIVAR UTILITY SERVICES, L.L.C.	§	
RN103637807	§	ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2013-0133-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding BOLIVAR UTILITY SERVICES, L.L.C. ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by Andrew Barrett of the law firm of Barrett & Associates, PLLC, presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment plant and associated collection system located at 1329 29th Street, approximately 0.25 mile north and 0.9 mile west of the intersection of State Highway 87 and Broadway Avenue (Loop 108) in Galveston County, Texas (the "Facility").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation conducted on November 16, 2012, TCEQ staff documented that the chlorine contact basin contained six inches of sludge in a total water depth of six feet.
4. During an investigation conducted on November 16, 2012, TCEQ staff documented that the Respondent did not comply with permitted effluent limits as shown in the table below:

<i>EFFLUENT PARAMETER</i>				
<i>Permit Limit</i>				
	CBOD Daily Average Concentration	Enterococci Single Grab	Cl ₂ Residual Maximum Concentration	pH Minimum
<i>Month/Year</i>	10 mg/L	89 CFU/ 100 mL	4 mg/L	6 su
April 2012	13	c	c	c
June 2012	12.5	c	c	c
September 2012	c	1,159	c	c
November 16, 2012 *	c	c	>8.8	5.81

mg/L = milligrams per liter su = standard units CFU = colony forming units
mL = milliliter c = compliant CBOD = carbonaceous biochemical oxygen demand
Cl₂ = chlorine * = grab sample

5. During an investigation conducted on November 16, 2012, TCEQ staff documented that the Respondent did not utilize an Environmental Protection Agency ("EPA") approved method for effluent analysis. Specifically, the LaMotte 1200 DPD Chlorine meter uses EPA method 330.5, which is not an approved method for the analysis of total chlorine residual for wastewater.
6. During an investigation conducted on November 16, 2012, TCEQ staff documented that manganese oxide corrections were not being conducted for total chlorine residual analysis.
7. During an investigation conducted on November 16, 2012, TCEQ staff documented that during the period between December 6, 2011 and November 16, 2012, the Respondent reported three sanitary sewer system overflows as shown in the table below:

UNAUTHORIZED DISCHARGE TABLE			
Date	Location	Amount Discharged (gallons)	Description
January 5, 2012	Lift Station No. 3	1,000	Lift Station No. 3 lost power due to problems at the Entergy transformer that services the lift station, causing a spill.
January 26, 2012	Lift Station No. 3	1,000	Lift Station No. 3 lost power due to problems at the Entergy transformer that services the lift station, causing a spill.
July 5, 2012	Lift Station No. 3	500	The wires on the relay shorted out which caused the pumps to malfunction.

8. The Respondent received notice of the violations on January 16, 2013.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. Implemented corrective measures in the collection system as shown in the table below:

CORRECTIVE ACTION TABLE		
Date	Location	Corrective Action Taken
January 6, 2012	Lift Station No. 3	Contained the spill by installing temporary and permanent breakers and permanent breakers, and vacuuming and remediating the affected area.
January 26, 2012	Lift Station No. 3	Contained the spill by replacing both transformers.
July 5, 2012	Lift Station No. 3	Contained the spill by replacing wiring on the relays, and vacuuming and remediating the affected area.

- b. By November 26, 2012, installed a new lift station which reduced the amount of waste that was being trucked directly into the Facility, which in turn reduced the concentration of waste handled by the Facility and lowered the chlorine feed rate;
 - c. By November 29, 2012, pumped out and cleaned the chlorine contact basin and began monitoring it on a weekly basis; and

- d. By December 3, 2012:
 - i. Began using a Hach Chlorine Pocket Colormeter II to monitor for chlorine residual; and
 - ii. Began performing manganese oxide corrections for each chlorine residual analysis.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014452001, Operational Requirements No. 1, and 30 TEX. ADMIN. CODE § 305.125(1) and (5).
3. As evidenced by Findings of Fact No. 4, the Respondent failed to comply with permitted effluent limits, in violation of TPDES Permit No. WQ0014452001, Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 3, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a).
4. As evidenced by Findings of Fact No. 5, the Respondent failed to utilize an EPA approved method for effluent analysis, in violation of TPDES Permit No. WQ0014452001, Monitoring and Reporting Requirements No. 2.a., and 30 TEX. ADMIN. CODE § 319.11(c).
5. As evidenced by Findings of Fact No. 6, the Respondent failed to properly conduct the total chlorine residual analysis, in violation of TPDES Permit No. WQ0014452001, Monitoring and Reporting Requirements No. 1, and 30 TEX. ADMIN. CODE § 319.11(c).
6. As evidenced by Findings of Fact No. 7, the Respondent failed to prevent the unauthorized discharge of wastewater from the collection system, in violation of TPDES Permit No. WQ0014452001, Permit Conditions No. 2.g., 30 TEX. ADMIN. CODE § 305.125(4) and (5), and TEX. WATER CODE § 26.121(a).
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

8. An administrative penalty in the amount of Twenty Thousand One Dollars (\$20,001) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid One Thousand One Dollars (\$1,001) of the administrative penalty. The remaining amount of Nineteen Thousand Dollars (\$19,000) of the administrative penalty shall be payable in 19 monthly payments of One Thousand Dollars (\$1,000) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Twenty Thousand One Dollars (\$20,001) as set forth in Section II, Paragraph 8 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: BOLIVAR UTILITY SERVICES, L.L.C., Docket No. 2013-0133-MWD-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0014452001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three

consecutive months of compliance with all permitted limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director.

The determination of what constitutes good cause rests solely with the Executive Director.

6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

6/7/13
Date

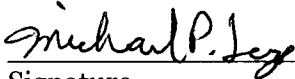
I, the undersigned, have read and understand the attached Agreed Order in the matter of BOLIVAR UTILITY SERVICES, L.L.C. I am authorized to agree to the attached Agreed Order on behalf of BOLIVAR UTILITY SERVICES, L.L.C., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, BOLIVAR UTILITY SERVICES, L.L.C. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

9 April, 2013
Date

Michael P. Lege
Name (Printed or typed)
Authorized Representative of
BOLIVAR UTILITY SERVICES, L.L.C.

Sec/Treas
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.